

# Order

Michigan Supreme Court  
Lansing, Michigan

May 1, 2015

Robert P. Young, Jr.,  
Chief Justice

150711

Stephen J. Markman  
Mary Beth Kelly  
Brian K. Zahra  
Bridget M. McCormack  
David F. Viviano  
Richard H. Bernstein,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 150711  
COA: 322385  
Kent CC: 13-011947-FH

MIGUEL ALEJANDRO  
MARTINEZ-VASCONCEL,  
Defendant-Appellant.

On order of the Court, the application for leave to appeal the September 2, 2014 order of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we VACATE the sentence of the Kent Circuit Court, and we REMAND this case to the trial court for resentencing. The plea agreement provided for a sentence within a sentencing guidelines range of 0 to 18 months. Thus, the trial court was required to impose an intermediate sanction as defined by MCL 769.31(b), which may not exceed a jail term of 12 months unless the trial court states on the record a substantial and compelling reason to sentence the defendant to the jurisdiction of the Department of Corrections. MCL 769.34(4)(a). Here, the trial court sentenced the defendant to a term of imprisonment without any acknowledgment on the record that this was a departure from the plea and sentence agreement. On remand, the trial court shall sentence the defendant to an intermediate sanction, or provide the defendant an opportunity to withdraw the plea. See *People v Muttscheler*, 481 Mich 372 (2008); MCR 6.302(C)(3); MCR 6.310(B)(2).

We do not retain jurisdiction.



s0428

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 1, 2015

  
Clerk